

INSURANCE

Mike Johanns

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Department Responds To Broker Compensation Issues

On October 14, 2004, New York Attorney General Elliot Spitzer filed a civil lawsuit against Marsh & McLennan Companies, Inc., addressing various insurance industry sales practices related to the payment of contingent commissions to brokers and certain quotation practices. As a result of the alleged practices, consumers may have paid more than necessary for insurance coverage.

To evaluate whether similar issues have occurred in Nebraska, the Department sent interrogatories to our domestic insurers. The interrogatories were issued under the Nebraska Insurers Examination Act and will be used to evaluate whether additional action or investigation is necessary. The Department is actively providing comment to the NAIC Executive Task Force on Broker Activities in response to the model legislation which would amend the NAIC's current Producer Licensing Model Act to implement new disclosure requirements designed to ensure consumers are provided the information necessary to understand the manner in which brokers are compensated for the sale of insurance products.

At this point, the Department does not anticipate recommending any changes to the insurance laws regarding compensation arrangements since these arrangements are prohibited. Nebraska insurance law, Neb.Rev.Stat. §44-354, currently provides that any fee, compensation, charge, or perquisite for insurance must be specified in the policy. In addition, Neb.Rev.Stat. §44-361, the anti-rebate/inducement law, requires all compensation, either direct or indirect, to be specified in the policy. With regard to insurance consultants acting as brokers, Neb.Rev.Stat. §44-2641 prohibits collection of fees from a consumer if remuneration is paid by the insurer. If, during the course of the investigation, the Department determines that insurance producers have not complied with these statutory provisions, the Department may pursue administrative action accordingly.

If you should have any questions regarding the content of this article, you may contact Bruce Ramge, Chief of Market Regulation, at 402-471-2201, or bramge@doi.state.ne.us.

PROPERTY & CASUALTY DIVISION

Car Rental Agencies

It has come to our attention that there are car rental agencies acting as self-insurers for the portion of insurance that is sold to their customers.

The limited license for car rental agencies issued by the Department is applicable only to the sale of insurance, and does not permit a car rental agency to self-insure for insurance that is sold to customers.

Insurance sold as primary liability insurance must meet the state's financial responsibility laws regardless of the class of road.

To assist in resolving this issue, the Department asks that each car rental agency make certain that insurance being sold is fully insured with an authorized insurer.

It has come to our attention that there are car rental agencies acting as self-insurers for the portion of insurance that is sold to their customers. Although certification may have been obtained from the Nebraska Department of Motor Vehicles to qualify as a self-insurer for purposes of demonstrating compliance with statutory financial responsibility requirements, such certification does not apply to the insurance that licensees sell to vehicle renters.

It is important to note that the limited license for car rental agencies issued by the Nebraska Department of Insurance is applicable only to the sale of insurance. It does not permit a car rental agency to self-insure for insurance that is sold to customers. The applicable statute, Neb.Rev.Stat. §44-4067 clearly indicates that a limited license may be issued for the sale of insurance issued by an insurer authorized to write the type of insurance specified in that section. Neb.Rev.Stat. §44-2007 sets forth penalties for unauthorized insurance. It states, "Any unauthorized insurer who transacts any unauthorized act of an insurance business as set forth in §§44-2001-44-2008 shall be guilty of a Class I misdemeanor." An excess policy alone is not sufficient.

Additionally, insurance sold as primary liability insurance must meet the state's financial responsibility laws regardless of the class of road. Although it is permissible for rental agreements to restrict the use of the vehicle, the insurance sold as being primary to meet Nebraska's financial responsibility laws may not be voided because of use of non-paved roads.

In order to assist in resolving this issue, the Nebraska Department of Insurance asks that each car rental agency make certain that insurance being sold is fully insured with an authorized insurer.

Any questions concerning this topic may be directed to Bev Anderson, Property Casualty Division Administrator, at 402-471-2201 or via e-mail at bev_anderson@doi.state.ne.us.

NCCI has recently filed and we have approved an average overall increase in loss costs of 4.9% to be effective February 1, 2005.

Because we are no longer stamping all forms, it will only be necessary to submit one copy of the forms along with two copies of the letter and forms list.

We encourage everyone to look over our website at www.nol.org/home/ndoi and take advantage of the information available to you.

A revised service contract registration form and the minimum and maximum cash discounts for the 2005 Crop Hail programs have recently been added to the website.

Workers' Compensation

NCCI has recently filed and we have approved an average overall increase in loss costs of 4.9% to be effective February 1, 2005. As a reminder, we want to point out to you that with most advisory organization filings, you have the option to delay or not adopt. That option, however, is not available to you with the filings made by NCCI. The revised loss costs will be effective for everyone beginning February 1, 2005. Companies have the option of making a change to their loss cost multiplier, which of course then must be filed with us.

Filings For Commercial and Personal Lines

Please be reminded that for all lines of insurance, prior approval or file and use, we are no longer stamping all forms. We are stamping your cover letter and the appropriate forms list, so it is no longer necessary for you to submit two copies of all forms. Please submit one copy of your forms, which we will keep in our file, and two copies of the letter and forms list, which will be stamped with the appropriate stamp and returned to you for your file. This will reduce the amount of postage you have to include on the return envelope. Please remember to include a postage-paid envelope that is appropriate for the size of the documents that you want returned to you.

Website Information

We encourage everyone to look over our website and take advantage of the information that is available to you. We are constantly updating the site to include current information. For example, under Property Casualty Guidelines, you can find the names/e-mail addresses and telephone numbers for each member of the Property Casualty Division along with the lines of insurance each individual handles. If you have a question regarding a specific filing, please feel free to call the individual who handles that line. For status requests, please call Gina Younger.

We have recently added a revised service contract registration form, and minimum and maximum cash discounts for the 2005 Crop Hail programs. Under General Information, you can find prior newsletters, notices, press releases and complaint forms.

Our link to the Unicameral allows you to track the bills that have been introduced, get copies of the bills and follow the progress for those that are of interest to you.

Through a link to the Unicameral, you can obtain copies of statutes. If you do not know the exact statute number, just enter a term, such as "Uninsured Motorists," which will then give you a number of statutes that could apply. If you know the statute number, it may be to your advantage to check the "exact" box, as that will limit the search for your selection. Our link to the Unicameral also allows you to track the bills that have been introduced, get copies of the bills and follow the progress for those that are of interest to you. The Department's website can be found at www.nol.org/home/ndoi.

ISO ADVISORY FILINGS

COMMERCIAL LINES:

COMMERCIAL PROPERTY

Approved: 2-28-04	CF-2004-RPTRU
Approved: 2-28-04	CF-2004-RPTLC

COMMERCIAL PACKAGE

Approved: 2-28-04	BP-2004-RPTRU
Approved: 1-04-05	FI-2004-OFRO4
Approved: 1-11-05	BP-2004-OFOTR
Approved: 1-04-05	FI-2004-RLC04
Approved: 1-04-05	FI-2004-ORU04
Approved: 12-3-04	MS-2004-RSFLC
Approved: 12-28-04	BP-2004-RPTLC
Approved: 1-04-05	RP-2004-RF104

COMMERCIAL LIABILITY

Approved: 12-28-04	GL-2004-RPTRU
Approved: 11-5-04	GL-2004-OSIER
Approved: 11-5-04	GL-2004-OSIEF

PROFESSIONAL LIABILITY

Approved: 12-7-04	EC-2004-RILLC
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COMMERCIAL UMBRELLA/EXCESS

Approved: 11-5-04	CU-2004-OSIEF
Approved: 11-5-04	CU-2004-OSIER

PERSONAL LINES:

FARM

Approved: 11-30-04	FR-2004-RLA1
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AUTO

Approved: 11-3-04	PP-2004-BRIA1
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PRODUCER LICENSING DIVISION

Agency License Renewals

Notices have been mailed to insurance agencies outlining the agency license renewal procedure for May 1, 2005 to April 30, 2006.

Notices have been mailed to insurance agencies outlining the agency license renewal procedure for May 1, 2005 to April 30, 2006. The notice contains information regarding agencies licensed under DBA names, adding or deleting a designated agent or broker to an agency, deleting a name, changing an agency name or address, and what documents need to be submitted to the Department to renew an agency license.

Renewal of Agents' Appointments

All active agents' appointments will be automatically renewed May 1, 2005, unless canceled by the insurance company prior to April 15, 2005.

In mid-January, notices were mailed to all insurance companies licensed to transact business in Nebraska concerning the renewal of agents' appointments for 2005-2006. All active agents' appointments will be automatically renewed May 1, 2005, unless canceled by the insurance company prior to April 15, 2005. The notice also contains information regarding the process for terminating an agent's appointment, requests for cancellation forms received after April 15, 2005, agents who have failed to renew their licenses or have moved to another state, and new appointments of agents.

Both of the above notices can be found on the Department's website at www.nol.org/home/ndoi.

National Producer Number Replaces Social Security Number on Individual Licenses

Any individual producer license printed by our Department on or after February 1, 2005, will have the social security number removed and replaced by the national producer number.

Any individual producer license printed by our Department on or after February 1, 2005, will have the social security number removed and replaced by the national producer number. The license will still reflect the Nebraska license number in addition to the national producer number. Individuals, who are residents of Nebraska and who are applying for a producer license for the first time, will receive a license that will not show a national producer number. The national producer number is assigned at the NAIC when the Department submits the record to the National Producer Database, and will appear on any resident producer license that is issued after the initial license.

LEGAL DIVISION

Actions Taken Against Agents

CAUSE NO.	ALLEGATION	DISPOSITION
A-1537 Jon W. Sostad Kearney, NE	Violated <u>Neb.Rev.Stat.</u> §44-4059(1)(h). Used fraudulent, coercive or dishonest practices.	Consent Order \$950 admin. fine; three add'l hours of ethics cont. education 11/24/04
A-1567 Timothy C. Starinieri Herndon, VA	Violated <u>Neb.Rev.Stat.</u> §44-19,116(2) and Title 210, NAC Chapter 34, Sec. 007. Failed to have CPA audit conducted for previous calendar year; failed to submit audit to Department by March 31, 2004.	Order Producer's license revoked 10/22/04
A-1569 Sidney Ferenc & Applied Risk Services, Inc. et al. Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §§44-2002 & 44-4905. Transacted insurance business without obtaining a certificate of authority; operated as a managing general agent without obtaining a license.	Consent Order \$15,000 admin. fine 11/22/04
A-1593 David H. Andersen Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §44-4059(1)(h) & (j). Used fraudulent, coercive or dishonest practices; forged another's name to any type of insurance document.	Order \$2,000 admin. fine 11/10/04
A-1594 Carolynn Key-Suhr Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §§44-19,116(b) & 44-4028(11). Failed to deposit funds into trust account by end of next business day; demonstrated untrustworthiness or incompetence.	Consent Order \$1,500 admin. fine 11/30/04
A-1595 Steve F. Jansen Fordyce, NE	Violated <u>Neb.Rev.Stat.</u> §44-4059(1)(b). Violated an order of the director.	Consent Order \$1,500 admin. fine 10/20/04
A-1596 Kristin M. Drain Omaha, NE	Violated <u>Neb.Rev.Stat.</u> §§44-19,116(e)(i), 44-1525(5)(b), & 44-4059(1)(g) & (h). Made disbursement of funds prior to receipt of funds from lender; made false entry of material fact in any book, report or statement; committed unfair trade practices; used fraudulent, coercive or dishonest practices.	Consent Order Producer's license revoked 11/24/04
A-1597 Tonnie Cobbs Bellevue, NE	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(b) & (h) & 44-4064. Violated any insurance law; financial responsibility; failed to pay licensing fees.	Order \$565 admin. fine 11/24/04
A-1598 Leslie Stewart Denver, CO	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(b) & (h) & 44-4064. Violated any insurance law; financial responsibility; failed to pay licensing fees.	Consent Order \$675 admin. fine 11/18/04
A-1599 Harvey Ridgeway Norfolk, NE	Violated <u>Neb.Rev.Stat.</u> §44-4059(1)(e) & (h). Intentionally misrepresented an insurance contract; used fraudulent, coercive or dishonest practices.	Consent Order Producer's license suspended for eight months 11/24/04

Actions Taken Against Agents

CAUSE NO.	ALLEGATION	DISPOSITION
A-1600 Frankie Tony Fernandez Lincoln, NE	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(b) & (h) & 44-317. Violated any insurance law; used fraudulent, coercive or dishonest practices; obtained a loan from an insurance client.	Consent Order \$1,000 admin. fine and restitution for loan obtained 12/14/04
A-1602 V. J. Rozanek David City, NE	Violated <u>Neb.Rev.Stat.</u> §44-4059(1)(b). Violated an order of the director.	Order Producer's license revoked 12/22/04
A-1603 Rita V. Hanson Gering, NE	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(b) & 44-1525 (11). Violated any insurance law; failed to respond to Department inquiry within 15 business days.	Order \$500 admin. fine; producer's license suspended until response received by Department 12/21/04
A-1604 Diane K. Leetch Albion, NE	Violated <u>Neb.Rev.Stat.</u> §§44-4059(1)(e), (h) & (j). Intentionally misrepresented an insurance contract; used fraudulent, coercive or dishonest practice; license suspended, placed on probation, or revoked in another jurisdiction.	Consent Order Producer's license revoked 12/8/04
A-1608 Karla Story-Mahoney Omaha, NE	Application for Producer's license denied.	Order License granted 1/10/05

Actions Taken Against Companies

CAUSE No.	ALLEGATION	DISPOSITION
C-1444 First National Life Insurance Company of the U.S.A. (CT)	Violated <u>Neb.Rev.Stat.</u> §§44-2132(1),(5), 44-2143(3) and Title 210, NAC Chapter 24. Multiple violations of Insurance Holding Company System Act and the Unfair Trade Practices Act.	Consent Order \$3,500 admin. fine 10/22/04
C-1448 Coventry Health Care of Nebraska, Inc., and APS Healthcare of Bethesda, Inc. (NE & MD)	Violated <u>Neb.Rev.Stat.</u> §§44-1540(1),(2),(3),(4), (8),(13) and Title 210, NAC Chapter 61. Multiple violations of the Unfair Trade Practices Act and of the Unfair Life, Sickness and Accident Claims Settlement Practices regulation.	Consent Orders \$20,000 and \$50,000 admin. fines 11/1/04 & 11/10/04
C-1454 Bankers Life & Casualty Co. (IL)	Violated Title 210, NAC Chapter 50, Sec. 005.01, 006.02 & 010.01. Multiple violations of the Rules Concerning the Advertising of Life Insurance and Annuities regulation.	Consent Order 1,000 admin. fine 11/2/04
C-1504 Highlands Insurance Company (NJ)	Violated <u>Neb.Rev.Stat.</u> §§44-134 and 44-4809. Failed to promptly comply with applicable financial reporting statutes or rules and departmental requests relating thereto.	Order Certificate of Authority revoked 12/15/04

LIFE & HEALTH DIVISION

Following is a listing of division personnel and the areas for which each is responsible.

Deb Cunningham

Staff Assistant
dcunningham@doi.state.ne.us

Filing Fees
Status Checks
Company Visits and Questions
Med Supp & LTC Advertisements
Mail Distribution/Matching/Filing
Processes Year-End Reports from Companies
Maintains Division Database
Maintains Paper Files
SERFF Receiver, Reviewer, & Config. Editor

John Rink

Actuarial Assistant
jrink@doi.state.ne.us

Health Rates
Medicare Supplement Refunds
Comprehensive Health Insurance Pool
Small Employer Health Reinsurance Program
Assist Other Divisions on Actuarial Issues
NAIC Task Forces, Meetings, Conf. Calls
SERFF Reviewer

Jeanne Daharsh

Actuary & Administrator
jdaharsh@doi.state.ne.us

Credit Life & Health
Health Maintenance Organization Filings
Viatical Settlement Filings
Assumption & Merger Certificates
Pre-paid Dental
Questions Regarding Statutes
SERFF Reviewer

LeAnn Hammar

Insurance Analyst
lhammar@doi.state.ne.us

Life Forms
Variable Life Forms
Annuity Forms
Variable Annuity Forms
SERFF Configuration Editor
SERFF Reviewer

Ron Lobb

Insurance Analyst
rlobb@doi.state.ne.us

Health Forms
Long-Term Care & Short-Term
Facility Care
Medicare Supplement
Major Medical
Dental
Disability
Dread Disease & Critical Illness
SERFF Reviewer

EXAMINATION DIVISION

Transfer of Pre-Need Burial Trust Funds to Insurance

Certain pre-need burial trust funds that were being held in individual and master trust accounts are being transferred over to insurance products without the written permission of the pre-need purchaser or owner of the pre-need trust funds.

The pre-need purchaser needs to either apply for the insurance product or provide written consent for its purchase.

It is also important to note that transactions of this nature require licensing for the sale of pre-need burial trusts and insurance.

The packet containing premium tax and other miscellaneous forms is no longer mailed out by the Department, but can be downloaded from the Department's website at www.nol.org/home/ndoi.

It has recently come to the attention of the Nebraska Department of Insurance that certain pre-need burial trust funds that were being held in individual and master trust accounts are being transferred over to insurance products without the written permission of the pre-need purchaser or owner of the pre-need trust funds.

Neb.Rev.Stat. §44-704(1) provides that, "no policy of insurance shall be issued upon the person of any individual except upon the application of the individual insured or with the written consent of the individual insured." This means that the pre-need purchaser needs to either apply for the insurance product or provide written consent for its purchase. Failure to obtain the proper written authorization for this type of transaction can result in administrative action being taken against licenses of the pre-need seller, the pre-need agent, the insurance agent, the insurance agency, and/or the insurance company involved.

It is also important to note that transactions of this nature require licensing for the sale of pre-need burial trusts and insurance.

The Department of Insurance is the state agency assigned with the task of regulating both pre-need burial trusts and insurance products. Any inquiries regarding this matter should be addressed to the Department accordingly.

Premium Tax Packet Reminder

The packet containing the premium tax and other miscellaneous forms is no longer mailed out by the Department unless a specific request has been received.

On December 1, 2004, the forms and the filing checklist became available on the Department's website, and can be downloaded from the website at www.nol.org/home/ndoi.

The NAIC has adopted changes to the Preamble of the NAIC Accounting Practices and Procedures Manual which became effective January 1, 2005.

The changes require domiciliary state regulators to provide thirty days' advance notification to all states in which a company is licensed when considering approval of a request for a practice that departs from the Manual and state prescribed practices.

To comply with the requirement, all requests for permitted practices should be filed at least 30 days in advance of the desired approval date along with specific information.

Permitted Accounting Practices

On January 21, a memorandum was sent to all domestic insurers concerning the changes the NAIC has adopted to the Preamble of the NAIC Accounting Practices and Procedures Manual.

The changes require domiciliary state regulators to provide thirty days' advance notification to all states in which a company is licensed when considering approval of a request for a practice that departs from the Manual and state prescribed practices. This change became effective January 1, 2005.

To assist the Department in complying with this requirement, all requests for permitted practices should be filed at least 30 days in advance of the desired approval date and include the following information:

- Detailed description of the permitted accounting practice request, including the specific NAIC Statutory Accounting Principles or state prescribed practices from which the practice departs;
- Whether the permitted accounting practice was granted the previous year;
- The financial statement filing date in which the permitted accounting practice is requested (e.g., indefinitely, until withdrawn, specific date—month, day, year);
- The financial statement line items the permitted accounting practice will affect and the respective financial impact for each line item identified;
- The total financial impact to capital and surplus for all approved/requested permitted accounting practices;
- The effect of the permitted accounting practice on a legal entity basis and on all parent and affiliated U.S. insurance companies, if applicable.

Any questions regarding the content of this article should be directed to David Krumm, Chief Examiner, at 402-471-2201.

Pre-Need Exams Completed During Fourth Quarter, 2004

Butherus, Maser, & Love Mortuary
Floral Lawns Memorial Gardens
Funeral Services, Inc. d/b/a Newman Grove Memorial Funeral Home
Huffman's Brooks Chapel
Kleine Funeral Home
Ludvigsen Mortuary

Financial Examinations Completed During Fourth Quarter, 2004

Acceptance Casualty Insurance Company
Acceptance Indemnity Insurance Company

Financial examination reports become public documents once they have been placed on official file by the Department. Copies may be obtained from the Department at the cost of \$.50 per page.

FRAUD DIVISION

Public Awareness a Key to Fighting Insurance Fraud

Public awareness is a must in a successful fight against insurance fraud. The methods used by the Insurance Fraud Prevention Division (IFPD) and industry must be unified to educate a large portion of the public with their diverse views of insurance and insurance fraud. We must avoid concentrating our fraud fighting efforts on only one segment of the population.

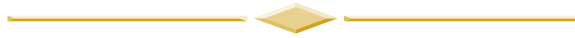
The best way to fight fraud is to prevent it from happening in the first place. This can be accomplished by providing messages that influence the behavior of our targeted audience. If we combine public awareness with aggressive investigation and prosecution we will be able to lower the cost of this crime to the insurance investing public.



Department Calendar

Feb. 21: Department Closed – President's Day

April 29: Department Closed – Arbor Day



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